

REMARKS/ARGUMENTS

In the Office Action mailed March 9, 2009, claims 12-30 were rejected. In response, Applicant hereby requests reconsideration of the application in view of the proposed amendments and the below-provided remarks. No claims are added or canceled. Applicant submits that the proposed amendments place the present application in condition for allowance or in better condition for appeal.

For reference, proposed amendments are presented for claims 12, 13, 15, 17-19, and 22-30. In particular, the proposed amendments for claims 12, 13, 15, 17-19, and 22-30 are each presented to consistently recite “individualized calibration signal” for proper conformity with antecedent basis requirements. Also, the proposed amendments for claims 23, 25, and 26 are presented to clarify the relationship between the identifier and the URL. Similarly, the proposed amendments for claim 24 are presented to clarify the relationship between the identifier and the IP address. Also, the proposed amendments for claims 27-30 are presented to clarify the references to the shared identifier.

Claim Rejections under 35 U.S.C. 112

The Office Action rejected claims 13 and 23-30 under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention. Applicant respectfully requests that these rejections be withdrawn in light of the following remarks.

Claims 13, 23, 25-27, 29, and 30

Claims 13, 23, 25-27, 29, and 30 were rejected for reciting “said calibration signal.” Applicant submits these claims are amended to recite “said individualized calibration signal” which is consistent with the language of the corresponding independent claims. Accordingly, Applicant respectfully requests that the applicable rejections of claims 13, 23, 25-27, 29, and 30 under 35 U.S.C. 112, second paragraph, be withdrawn.

Claims 23, 25, and 26

Claims 23, 25, and 26 were rejected for failing to clearly define the relationship between the URL and the “identifier” recited in the corresponding independent claims. Applicant submits that these claims are amended to recite the at least one identifier comprises a URL, thus clarifying the relationship between the identifier and the URL. Accordingly, Applicant respectfully requests that the applicable rejections of claims 23, 25, and 26 under 35 U.S.C. 112, second paragraph, be withdrawn.

Claim 24

Claim 24 was rejected for failing to clearly define the relationship between the IP address and the “identifier” recited in the corresponding independent claims. Applicant submits that the claim is amended to recite the at least one identifier comprises an IP address, thus clarifying the relationship between the identifier and the IP address. Accordingly, Applicant respectfully requests that the applicable rejection of claim 24 under 35 U.S.C. 112, second paragraph, be withdrawn.

Claims 27-30

Claims 27-30 were rejected for failing to clearly define the relationship between the “identifier” recited in these claims and the “identifier” recited in the corresponding independent claims. Applicant submits that these claims are amended to recite “the at least one identifier” in reference to the identifier of the corresponding independent claims. Accordingly, Applicant respectfully requests that the applicable rejections of claims 27-30 under 35 U.S.C. 112, second paragraph, be withdrawn.

Claim Rejections under 35 U.S.C. 103

Claims 12, 13, and 15-22 were rejected under 35 U.S.C. 103(a) as being unpatentable over Badger (U.S. Pat. No. 5,678,211, hereinafter Badger) in view of Alpaiwalia et al. (U.S. Pat. Pub. No. 2004/0051815, hereinafter Alpaiwalia). Additionally, claims 14 and 23-26 were rejected under 35 U.S.C. 103(a) as being unpatentable over Badger in view of Alpaiwalia and further in view of Potrebic et al. (U.S. Pat. No. 6,804,824, hereinafter Potrebic). Additionally, claims 14 and 27-30 were

rejected under 35 U.S.C. 103(a) as being unpatentable over Badger in view of Alpaiwalia and further in view of Englmeier et al. (U.S. Pat. No. 7,119,834, hereinafter Englmeier). However, Applicant respectfully submits that these claims are patentable over Badger, Alpaiwalia, Potrebic, and Englmeier for the reasons provided below.

Independent Claim 12

Claim 12 recites in part “identified by at least one identifier associated with at least one database field in a database outside said receiver” (emphasis added).

While the details of the specification are not read into the limitations of the claim, it may be useful to refer to the specification of the present application for a contextual understanding of the limitations recited in the claims. The specification of the present application describes three types of memory storage. The first memory storage is the tuner memory, shown as TUN MEM 26 in the drawing. The second memory storage is the receiver memory, shown as MEM 11 in the drawing. The third type of memory storage is the external database 40. If the receiver processor 10 decides that a tuner needs to be calibrated, the processor reads the tuner memory 26 which provides either a Uniform Resource Locator (URL) or an Internet Protocol (IP) address (i.e., identifier) for identifying database fields in the database 40, which is located outside the receiver. Present Application, page 4, lines 32-34, and page 5, lines 1-3. Once the receiver processor 10 makes a connection with the outside database 40, via the network 41, the calibration signals are automatically downloaded from the database 40 via the network 41 and stored in the receiver memory 11. Present Application, page 5, lines 4-9. It should be noted that the tuner memory 26 and the receiver memory 11 are located within the receiver. Only the database 40 is external to the receiver.

In the response to Applicant’s previous arguments that the look-up table of Alpaiwalia is not located outside of the receiver, the Examiner states that the look-up-table (LUT/Prom) of Alpaiwalia corresponds to the memory 11 of the present application, and the centralized system of Alpaiwalia is being read as the database outside the receiver. Office Action, 3/9/09, page 2. However, even if the LUT/Prom of Alpaiwalia were a type of memory similar to the memory 11 described in the present application, this asserted correlation nevertheless fails to appreciate that the indicated

memory 11 is located within the receiver. Thus, the LUT/Prom of Alpaiwalia would merely correspond to a memory device inside the receiver. However, Alpaiwalia does not teach a database outside said receiver.

Moreover, Alpaiwalia specifically states that the television receiver comprises a tuner, a microprocessor, a communications bus and a rewritable memory, e.g., an electrically erasable programmable read only memory (EEPROM). Alpaiwalia, abstract. Thus, the abstract of Alpaiwalia clearly describes the EEPROM memory as being an internal component included in the receiver. Consequently, the characterization in the Office Action that the EEPROM (Prom) memory is purportedly outside the receiver is inconsistent with the actual description of Alpaiwalia. Therefore, Alpaiwalia does not teach a database outside of a receiver, as recited in the claim.

For the reasons presented above, the combination of Badger and Alpaiwalia does not teach all of the limitations of the claim because the combination of Badger and Alpaiwalia does not teach a database outside of a receiver, as recited within the context of the claim. Accordingly, Applicant respectfully asserts claim 1 is patentable over the combination of Badger and Alpaiwalia because the combination of Badger and Alpaiwalia does not teach all of the limitations of the claim.

Independent Claims 17, 21, and 22

Applicant respectfully asserts independent claims 17, 21, and 22 are patentable over the combination of Badger and Alpaiwalia at least for similar reasons to those stated above in regard to the rejection of independent claim 12. Each of claims 17, 21, and 22 recites subject matter which is similar to the subject matter of claim 1 discussed above. Although the exact language of claims 17, 21, and 22 differs from the language of claim 12, and the scope of claims 17, 21, and 22 should be interpreted independently of claim 1, Applicant respectfully asserts that the remarks provided above in regard to the rejection of claim 12 also apply to the rejections of claims 17, 21, and 22.

Dependent Claims

Claims 13-16, 18-20, and 23-30 depend from and incorporate all of the limitations of the corresponding independent claims 12, 17, 21, and 22. Applicant respectfully asserts claims 13-16, 18-20, and 23-30 are allowable at least based on allowable base claims. Additionally, each of claims 13-16, 18-20, and 23-30 may be allowable for further reasons, as described below.

The rejections of claims 14 and 23-26 based on the combination of Badger, Alpaiwalia, and Potrebic are improper because the Office Action does not establish a *prima facie* rejection for these claims. In order to establish a *prima facie* rejection of a claim under 35 U.S.C. 103, the Office Action must present a clear articulation of the reason why the claimed invention would have been obvious. MPEP 2142 (citing *KSR International Co. v. Teleflex Inc.*, 550 U.S. __ (2007)). The analysis must be made explicit. *Id.* Additionally, rejections based on obviousness cannot be sustained by mere conclusory statements; instead there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness. *Id.*

Here, the Office Action fails to explain why the limitations of these claims would have been obvious because the Office Action merely relies on conclusory statements without providing articulated reasoning with some rational underpinning to support the legal conclusion of obviousness. Specifically, the Office Action acknowledges that the combination of cited references does not teach updatable data which is tuner calibration data. Office Action, 3/9/09, page 13. Hence, the Office Action states a rule based on *KSR*. However, the mere recitation of a rule from caselaw is insufficient to establish articulated reasoning with some rational underpinning to support a conclusion of obviousness. Rather, the statement of a rule of law does nothing to show how the limitations of the claim might be taught or known in the prior art, or even how the stated rule might be applied to the factual situation of the present application. Moreover, the stated rule refers to known work in one field of endeavor which might prompt variations in the same field or a different field based on design incentives or other market forces. However, the Office Action does not provide any analysis regarding the potentially known work in a field or fields of endeavor, the source of some prompting, or how the recited limitations might have been predictable based on such known work and

prompting. Therefore, the Office Action fails to apply the analysis required by the cited rule to the actual facts of the present application. In the absence of some articulated reasoning and analysis, the conclusion of obviousness stated in the Office Action is merely conclusory and is not properly supported by some articulated reasoning with some rational underpinning. Therefore, the Office Action fails to establish *prima facie* case of obviousness with respect to claims 14 and 23-26 because the Office Action does not provide any articulated reasoning supported by a rational underpinning to address the limitations which are not taught by the cited combination of references. Accordingly, Applicants respectfully submit that the rejections of claims 14 and 23-26 under 35 U.S.C. 103(a) should be withdrawn because the Office Action fails to establish *prima facie* rejections.

CONCLUSION

Applicant respectfully requests reconsideration of the claims in view of the proposed amendments and the remarks made herein. A notice of allowance is earnestly solicited.

At any time during the pendency of this application, please charge any fees required or credit any over payment to Deposit Account **50-4019** pursuant to 37 C.F.R. 1.25. Additionally, please charge any fees to Deposit Account **50-4019** under 37 C.F.R. 1.16, 1.17, 1.19, 1.20 and 1.21.

Respectfully submitted,

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Date: May 11, 2009